

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 2722-01
Bill No.: SB 949
Subject: Environmental Protection; Natural Resources Dept.; Licenses - Misc.; Waste-Solid; Waste - Hazardous; Water Resources and Water Districts; Administrative Law
Type: Original
Date: January 16, 2004

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2004	FY 2005	FY 2006
General Revenue	(\$106,358)	(\$209,224)	(\$214,585)
Total Estimated Net Effect on General Revenue Fund	(\$106,358)	(\$209,224)	(\$214,585)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2004	FY 2005	FY 2006
DNR Dedicated Funds	(Unknown) to Unknown	(Unknown) to Unknown	(Unknown) to Unknown
Total Estimated Net Effect on Other State Funds	(Unknown) to Unknown	(Unknown) to Unknown	(Unknown) to Unknown

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 6 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2004	FY 2005	FY 2006
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2004	FY 2005	FY 2006
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials of the **Office of State Courts Administrator, Department of Transportation, and Office of the Governor** assume this proposal would have no fiscal impact on their organization.

Officials of the **Office of the Secretary of State (SOS)** assume this bill would create the Environmental Hearing Commission within the Office of Administration and would instruct them to promulgate rules to implement this bill. The bill also affects Department of Natural Resources - Soil and Water Districts Commission, Petroleum Storage Tank Insurance Fund Board of Trustees, Safe Drinking Water Commission, Air Conservation Commission, Clean Water Commission, Hazardous Waste Management Commission, and Land Reclamation Commission. They could each choose to promulgate rules in the *Code of State Regulations* and the *Missouri Register* to explain the Environmental Hearing Commission. These rules could require as many as approximately 72 pages in the *Code of State Regulations*. For any given rule, roughly half again as many pages are published in the *Missouri Register* as in the *Code* because cost statements, fiscal notes and the like are not repeated in the *Code*. The estimated cost of a

ASSUMPTION (continued)

page in the *Missouri Register* is \$23. The estimated cost of a page in the *Code of State Regulations* is \$27. Actual costs could be more or less and costs in future years would depend upon frequency and length of rules filed, amended, rescinded or withdrawn.

$[(72 \times \$27) + (98 \times \$23)] = \$4,198$

Oversight assumes the SOS could absorb the costs of printing and distributing regulations related to this proposal. If multiple bills pass which require the printing and distribution of regulations at substantial costs, the SOS could request funding through the appropriation process. Any decisions to raise fees to defray costs would likely be made in subsequent fiscal years.

Officials from the **Office of Administration Administrative Hearing Commission (AHC)** assume this proposal adds a fourth commissioner to the Administrative Hearing Commission. The commissioner's salary is currently \$91,637, with fringe benefit costs of \$47,834. The Administrative Hearing Commission has also added an increase in E&E for the cost of supplies, increased postage in providing legal notice to many parties, and out of town hearings. There may be cost savings associated with moving the hearing function from its present location. Section 640.805.5 states that the AHC will promulgate rules regarding these hearings. The AHC currently has rules that apply to their cases and would add any new ones as necessary.

Officials from the **Department of Natural Resources (DNR)** assume this proposal would shift the responsibility to hear appeals on all actions granted to the director of the DNR and the different commissions within DNR to the Administrative Hearing Commission. Currently the department hires a hearing officer to hear appeals brought before the commissions. The department pays for the hearing officer and for all costs associated with those hearings. These costs vary depending on the complexity of the appeal.

The proposal requires the cost of the environmental appeals to be paid from the respective funds of affected commissions. If the costs for hearing the appeals before the Administrative Hearing Commission are consistent with the costs currently incurred by the commissions; the department assumes there would not be fiscal impact from this portion of the proposal. However, if appeal hearings brought before the Administrative Hearing Commission result in increased costs additional resources would have to be requested.

Under current environmental law, the burden of proof lies with the appellant. This proposal would shift the burden of proof from the appellant to the department in all cases except in matters involving the denial of a permit, license, or registration. The department is unable to determine the amount of resources that would be necessary to meet this provision of the

proposal. The department assumes that because the burden of proof shifts to the department,

ASSUMPTION (continued)

more appeals could be filed with the AHC. The department is also unable to determine the impact of the increased appeals.

<u>FISCAL IMPACT - State Government</u>	FY 2004 (6 Mo.)	FY 2005	FY 2006
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GENERAL REVENUE FUND

<u>Cost - Office of Administration</u>			
Personal Service (1 FTE)	(\$58,318)	(\$119,552)	(\$122,541)
Fringe Benefits	(\$30,917)	(\$63,380)	(\$64,964)
Expense and Equipment	(\$17,123)	(\$26,292)	(\$27,080)
Total Cost - Office of Administration	<u>(\$106,358)</u>	<u>(\$206,224)</u>	<u>(\$214,585)</u>

TOTAL COST TO GENERAL REVENUE FUND	<u>(\$106,358)</u>	<u>(\$206,224)</u>	<u>(\$214,585)</u>
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DNR DEDICATED FUNDS

<u>Savings - Dept. of Natural Resources</u>			
Hearing Officer	Unknown	Unknown	Unknown

<u>Cost - Dept. of Natural Resources</u>			
Shift in burden of proof to DNR	<u>(Unknown)</u>	<u>(Unknown)</u>	<u>(Unknown)</u>

ESTIMATED NET EFFECT ON DNR DEDICATED FUNDS	<u>(Unknown) - Unknown</u>	<u>(Unknown) - Unknown</u>	<u>(Unknown)- Unknown</u>
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<u>FISCAL IMPACT - Local Government</u>	FY 2004 (10 Mo.)	FY 2005	FY 2006
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\$0

\$0

\$0

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

DESCRIPTION

Under this act, appeals of environmental issues would be conducted by the Administrative Hearing Commission (AHC). The Commission is expanded from three to four members with one member having an interest in and knowledge of environmental issues.

Under this act, a petition for hearing before the AHC must be filed within 30 days. All findings, orders, decisions and assessments must have language notifying the parties of their rights to appeal for a hearing before the AHC. Matters heard by the AHC will be governed by the provisions of Chapter 536, RSMo. These matters shall take precedence over all other matters heard by the AHC. Decisions shall be rendered within 60 days of the completion of the hearing. Transcripts of hearings must be retained by the AHC and the decisions made must be made available to the public.

Under this act, all decisions of the AHC shall be subject to judicial review and that right shall be available to Department of Natural Resources and any other commission aggrieved by the AHC's final decision.

In all matters heard by the AHC pursuant to this act, the burden of proof shall be on the applicant on the appeal of a denial of a request for a permit, license or registration and the burden of proof shall be on the challenger or petitioner on the appeal of a granting of a request.

The effective date of this act is January 1, 2005.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

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SOURCES OF INFORMATION

Office of Administration
Office of State Courts Administrator
Department of Natural Resources
Office of the Governor
Secretary of State's Office



Mickey Wilson, CPA
Director
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